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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,867	01/18/2002	Joseph G. Buehl	43314/236951	5358
826	7590	04/05/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			SHEPARD, JUSTIN E	
			ART UNIT	PAPER NUMBER
			2623	

DATE MAILED: 04/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/053,867	Applicant(s) BUEHL ET AL.	
	Examiner Justin E. Shepard	Art Unit 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities: On page 11, last line and page 12, first line: Number "145" should be replaced with "165."

Appropriate correction is required.

Claim Objections

Claim 14 is objected to because of the following informalities: The examiner cannot find reference to "content server base" in the specification. Appropriate correction is required.

Claim 22 is objected to because of the following informalities: The wording of the claim makes it hard to understand the order of event occurrence. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 6, 9, 10, 12, 13, 15, 17, 19, 20, 21, and 23 are rejected under 35 U.S.C. 102(e) as being anticipated by Gordon.

Referring to claim 1, Gordon discloses an asset that packages related content and data for distribution and service implementation in a digital cable system (figure 3), comprising: at least one metadata object (paragraph 51, lines 2-4), wherein the at least one metadata object identifies an application that is associated with the asset (paragraph 62, lines 1-3); at least one content object (paragraph 51, lines 2-4), wherein the at least one content object represents data to be stored based upon instructions of the application associated with the asset (paragraph 62, lines 5-8).

Referring to claim 6, Gordon discloses an asset of claim 1, wherein the at least one metadata object identifies the at least one content object (paragraph 28, lines 4-5).

Referring to claim 9, Gordon discloses a digital cable system that receives and delivers related content and data to facilitate service implementation in a digital cable system (figure 3), comprising: a staging server (figure 3, parts 43 and 44) receives an asset from a content provider (paragraph 54, lines 3-6), wherein the asset comprises content and data related to the content (paragraph 51, lines 2-4); a content server in communication with a subscriber set-top box for providing the content to the set-top box (figure 3; paragraph 54, lines 3-6); and an application associated with the asset to interpret the data related to the content, wherein the application identifies the server

that receives at least a portion of the content from the staging server (paragraph 62, lines 5-8).

Referring to claim 10, Gordon discloses a system of claim 9, further comprising an asset management system (figure 4B, part 92) that parses the asset to determine that the asset identifies the application (paragraph 62, lines 5-8; Note: reading the priority information encoded in the asset is interpreted as parsing the asset).

Referring to claim 12, Gordon discloses a system of claim 10, wherein the asset management system resides between the application and the staging server such that the staging server and application are in indirect communication (figure 3 parts 44 and 45; figure 4B, parts 51, 92, and 96).

Referring to claim 13, Gordon discloses a system of claim 10, wherein the asset management system is operable to instruct the content server to request at least a portion of the content from the staging server (paragraph 62, lines 3-4).

Referring to claim 15, Gordon discloses a system of claim 9, wherein the content server receives at least a portion of the content from the staging server (paragraph 64, lines 2-10).

Referring to claim 17, Gordon discloses a system of claim 9, wherein the application comprises a provisioning user interface to allow a user to identify the at least one server to receive at least a portion of the content (paragraph 67).

Referring to claim 19, Gordon discloses a method performed at a cable system headend for distributing related content and data to facilitate service implementation in a digital cable system (figure 3), comprising: receiving an asset (paragraph 43, lines 1-2), wherein the asset includes a machine readable description identifying content and related data (paragraph 51, lines 2-4); storing the asset in a staging server (paragraph 54, lines 3-6); parsing the machine readable description to determine an application associated with the asset and identified by the related data; examining the related data at the application to identify the content server that should receive at least a portion of the content; and instructing the content server to retrieve the content from the staging server (paragraph 62, lines 5-8).

Referring to claim 20, Gordon discloses a method of claim 19, further comprising the step of receiving the content from the staging server (paragraph 54, lines 3-6).

Referring to claim 21, Gordon discloses a method of claim 20, wherein the receiving step comprises receiving the content directly from the staging server (figure 3, part 72).

Referring to claim 23, Gordon discloses a method of claim 20, wherein the step of examining the related data at the application further comprises the step of identifying the at least one server that should receive at least a portion of the content based upon rules defined by a user associated with the application (paragraph 62, lines 5-8).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon.

Referring to claim 5, Gordon does not disclose an asset of claim 1, wherein the at least one content object represents data selected from the group consisting of an MPEG file, an executable file, an HTML page, and a JPEG image.

The examiner takes Official Notice that it would have been obvious for media files transmitted over a network to be in an MPEG format. The motivation would have been that compressing video into a format, such as MPEG, lessens the amount of data to transfer over a bandwidth limited network.

Claims 2-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Hall.

Referring to claim 2, Gordon does not disclose an asset of claim 1, further comprising an embedded asset, such that the asset is recursive.

Hall discloses an asset of claim 1, further comprising an embedded asset, such that the asset is recursive (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Gordon. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 3, Gordon does not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object.

Hall discloses an asset of claim 2, wherein the embedded asset further comprises at least one embedded content object (figure 6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset, comprising at least one embedded object, taught by Hall in the system disclosed by Gordon. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Referring to claim 4, Gordon does not disclose an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object.

Hall discloses an asset of claim 2, wherein the embedded asset further comprises at least one embedded metadata object (figure 6, "PROPERTY 3").

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the recursive asset taught by Hall in the system disclosed by Gordon. The motivation would have been to allow for one file to contain multiple programs, therefore simplifying the transmission process.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Bergman.

Referring to claims 7 and 8, Gordon does not disclose an asset of claim 1, further comprising a machine readable description identifying the at least one metadata object and the at least one content object; wherein the machine readable description comprises XML (column 14, lines 58-67).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use XML for the metadata, as taught by Bergman, in the system disclosed by Gordon. The motivation would have been to use a well known description language so that it would be simpler for people to create metadata for the content.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Grauch.

Referring to claim 11, Gordon does not disclose a system of claim 10, wherein the asset management system maintains a database associating the content and the data related to the content.

Grauch discloses a system of claim 10, wherein the asset management system maintains a database associating the content and the data related to the content (figure 1, part 58).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the database taught by Grauch in the system disclosed by Gordon. The motivation would have to been to keep the information in an organized storage unit, therefore making it more accessible.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Fujii.

Referring to claim 14, Gordon does not disclose a system of claim 9, wherein the application is operable to identify the content server base upon the data related to the content.

Fujii discloses a system of claim 9, wherein the application is operable to identify the content server base upon the data related to the content (column 10, lines 4-6).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the source content identifier taught by Fujii to the system disclosed by Gordon. The motivation would have been to enable the system to track the network traffic and predict the future network traffic.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Lumelsky.

Referring to claim 16, Gordon does not disclose a system of claim 9, wherein the content server requests the at least a portion of the content from the staging server using File Transfer Protocol (FTP).

Lumelsky discloses a system of claim 9, wherein the content server requests the at least a portion of the content from the staging server using File Transfer Protocol (FTP) (column 12, lines 49-50).

At the time it would have been obvious for one of ordinary skill in the art to use FTP to transfer the files, as taught by Lumelsky, in the system disclosed by Gordon. The motivation would have been to enable the movement with the best possible effort (Lumelsky: column 12, lines 49-50).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Herz.

Referring to claim 18, Gordon does not disclose a system of claim 17, wherein the provisioning user interface allows a user to specify rules for distributing at least a portion of the content to the content server.

Herz discloses a system of claim 17, wherein the provisioning user interface allows a user to specify rules for distributing at least a portion of the content to the content server (column 35, lines 57-63; column 36, lines 22-27).

At the time of the invention it would have been obvious for one of ordinary skill in the art to add the user specification of rules, as taught by Herz, in the system disclosed

by Gordon. The motivation would have been to provide content more suited for the user by collecting the user's opinion directly.

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gordon in view of Xu.

Referring to claim 22, Gordon does not disclose a method of claim 20, further comprising the step of retrieving the machine readable description from the staging server prior to the step of parsing the machine readable description.

Xu discloses a method of claim 20, further comprising the step of retrieving the machine readable description from the staging server prior to the step of parsing the machine readable description (column 10, lines 12-17).

At the time of the invention it would have been obvious for one of ordinary skill in the art to use the method of transmitting the metadata first, as taught by Xu, in the system disclosed by Gordon. The motivation would have been to save bandwidth, by not transmitting a file that is not going to be stored at the server.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin E. Shepard whose telephone number is (571) 272-5967. The examiner can normally be reached on 7:30-5 M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JS



VIVEK SRIVASTAVA
PRIMARY EXAMINER